

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

* * *

LINDSEY PURDY,
Plaintiff,

vs.

DANA BRIGGS,
Defendant.

2:11-CV-01599-PMP-PAL

ORDER

This action arises from an automobile accident which occurred on May 6, 2009 involving vehicles driven by Lindsey Purdy and Dana Briggs.

On June 30, 2009, Purdy filed a Complaint for Personal Injuries against Briggs in the Eighth Judicial District Court, State of Nevada. On December 4, 2009, Briggs filed a Complaint for Personal Injuries against Purdy in the same court. The cases were consolidated on September 24, 2010. On August 1, 2011, Intervenor/Counterdefendant Oregon Mutual Insurance Company, a potential provider of UM/UIM coverage under a policy issued on Purdy's vehicle, filed a Motion to Intervene to enable it to contest liability and damage allegations. On September 1, 2011, Purdy filed a Counterclaim alleging causes of action arising from Oregon Mutual's alleged refusal to pay Purdy her uninsured motorist demand.

On October 3, 2011, Intervenor/Counterdefendant Oregon Mutual removed the action to this Court (Doc. #1). On October 6, 2011, Plaintiff/Counterclaimant Purdy filed a Motion to Remand to State Court (Doc. #6). On October 11, 2011, Counterdefendant

1 Oregon Mutual filed a Motion to Dismiss, to Sever Improperly Joined Claims, and to
2 Remand Non-Diverse Claims (Doc. #7). On November 17, 2011, the Court heard argument
3 on both fully briefed Motions.

4 The Court finds Plaintiff's Motion to Remand (Doc. #6) should be granted and
5 Defendant's Motion to Dismiss, Sever and Remand (Doc. #7) should be denied. The
6 underlying lawsuit has been pending in Nevada State Court for more than two years.
7 Although Oregon Mutual has not been a party to the State action since its commencement,
8 Oregon Mutual has been aware of its potential liability in this case since Plaintiff Purdy
9 made demand for UIM benefits, prompting Oregon Mutual to file a separate Declaratory
10 Relief action in Nevada State Court in April 2011. Under all of the circumstances, the
11 Court finds Oregon Mutual's intervention in the underlying State action and subsequent
12 removal to this Court was not timely under 28 § 1446(b). As a result, Plaintiff is entitled to
13 have the action remanded to the court where it has proceeded for the past 2 ½ years.

14 **IT IS THEREFORE ORDERED** that Plaintiff's Motion to Remand (Doc. #6)
15 is **GRANTED** and that this action is hereby remanded to the Eighth Judicial District Court
16 in and for the County of Clark, Case Nos. A-09-593799-C and A-09-604808-C.

17 **IT IS FURTHER ORDERED** that Intervenor/Counterdefendant Oregon
18 Mutual's Motion to Dismiss, to Sever Improperly Joined Claims, and to Remand Non-
19 Diverse Claims (Doc. #7) is **DENIED**.

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21 DATED: November 21, 2011.

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PHILIP M. PRO
25 United States District Judge
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